

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

OPERATING ENGINEERS HEALTH AND  
WELFARE TRUST FUND FOR  
NORTHERN CALIFORNIA, et al.,

Plaintiffs,

v.

KINO AGGREGATES, INC.,

Defendant.

Case No. [16-cv-02795-HSG](#) (DMR)

**ORDER NO. 2 TO SUBMIT  
SUPPLEMENTAL BRIEFING IN  
SUPPORT OF MOTION FOR DEFAULT  
JUDGMENT**

Re: Dkt. No. 18

On September 27, 2016, Plaintiffs Operating Engineers Health and Welfare Trust Fund for Northern California et al. ("Plaintiffs") filed a motion for default judgment. [Docket No. 18.]

Having reviewed that motion, this court determines that Plaintiff did not brief its entitlement to the entry of default judgment pursuant to the factors enumerated in the Ninth Circuit's decision in *Eitel v. McCool*, 782 F.2d 1470, 1471-72 (9th Cir. 1986).

Further, in order to recover damages after securing a default judgment, a plaintiff must prove the relief it seeks by submitting proper evidence by way of a sworn affidavit. *Bd. of Trs. of the Boilermaker Vacation Trust v. Skelly, Inc.*, 389 F. Supp. 2d 1222, 1226 (N.D. Cal. 2005); *see Pepsico, Inc. v. Cal. Sec. Cans*, 238 F. Supp. 2d 1172, 1175 (C.D. Cal. 2002) (citing *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987)).

Here, Plaintiff lists the amounts of unpaid and late-paid contributions on page 2 of its motion, but does not attach documents or reports to the Declaration of David E. Hayner showing how it arrived at those amounts. *See* Hayner Decl., ¶ 20.

Plaintiff shall submit additional briefing by **NOVEMBER 7, 2016**, to address the above deficiencies in the motion for default judgment, and shall serve Defendant with any briefing or any additional submissions.

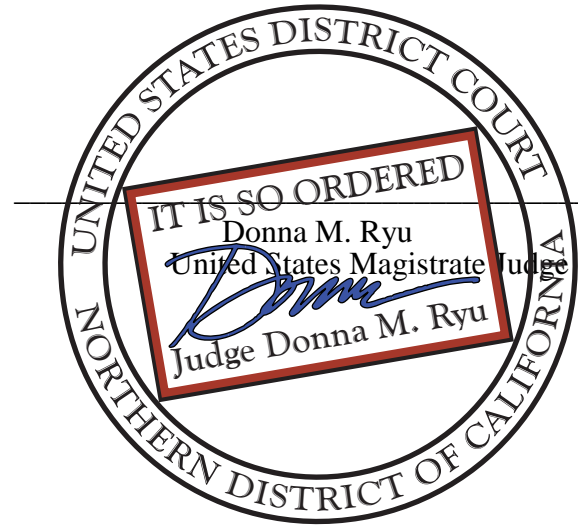
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1           **Immediately upon receipt of this Order, Plaintiff shall serve Defendant with a copy of**  
2 **this Order and file a proof of service with the court.**

3  
4           **IT IS SO ORDERED.**

5       Dated: October 24, 2016



United States District Court  
Northern District of California